

Jan 1959

MEMORANDUM ON CENTRAL INTELLIGENCE AGENCY

This memorandum has been prepared to summarize certain matters relating to the development of the Central Intelligence Agency, particularly the financial arrangements and the audit responsibility of General Accounting Office. The information in this memorandum has been obtained from the files (Legislative file on Central Intelligence Act and Amendments; B-59998, Confidential; and B-74185) in the General Accounting Office.

The Central Intelligence Agency was established as a successor to the Central Intelligence Group under the provisions of Section 102 of the National Security Act of 1947. Its purpose is to coordinate the intelligence activities of the several Government departments and Agencies in the interest of national security. The Agency has no police, subpoena, law-enforcement powers, or internal-security functions and its activities are almost entirely covert, carried out principally in foreign countries.

Establishment of Central Intelligence Group

Under date of July 30, 1946, (B-59998) a letter (received August 28, 1946, per GAO date stamp) signed by Dean Acheson, Acting Secretary of State, Robert P. Patterson, Secretary of War, James Forrestal, Secretary of the Navy, and William D. Leahy, Personal Representative of the President on National Intelligence Authority, was sent to the Comptroller General, attention Chief, Accounting and Bookkeeping Division, requesting that a working fund be established ~~under the provisions of~~ Section 601 of the Act of June 30, 1932 (47 Stat. 1171) from appropriations to the three Departments. This working fund was to be used to implement the Presidential directive of January 22, 1946, having to do with foreign

- 2 -

intelligence activities relating to national security and directed in particular to establishing a Central Intelligence Group to engage in certain centralized intelligence activities which were of common interest to the departments concerned. The working fund was deemed necessary to provide the Director of Central Intelligence with administrative and operational facilities which include expenditure of funds and furnishing of personnel and equipment. No specific reply appears to have been made to this letter by the General Accounting Office, but there is a notation at the bottom of the letter by E. L. F. on 8/6/46 as follows:

"This matter was discussed personally with the Comptroller General, the details and procedures were explained to him and he authorized establishing the working fund as requested."

Apparently there was some doubt in GAO on the legality of the proposed delegation to the Director, Central Intelligence Group, because the file (B-59998) contains an unsigned draft letter set up for signature by the same parties dated August 12, 1946, (also stamped received in GAO, August 28, 1946) confirming a working fund arrangement under a different authority. This unsigned letter refers to the letter dated July 30, 1946, and to the approval of the Treasury Department and the Comptroller General, of a working fund, War, General, 1947, which has been constituted and had been assigned the symbol number 2175900, under the authority granted by Section 291 of the Revised Statutes, the Military Appropriation Act, 1947, and the Naval Appropriation Act, 1947, approved July 8, 1946 (Public Law 492, 79th Congress). At the bottom of this letter a notation initialed by E. L. F. on 8/21/46 states that:

25X1A - 3 -

"I called [redacted] (War 76943) of Central Intelligence Group about this and advised him that the proposed delegation of authority was extremely doubtful as to some matters but that it did not lack color of authority and that under the circumstances, considering the nature of the Agency, this Office probably would go along with the delegation with the understanding the entire matter would be made the subject of specific legislation at the first reasonable opportunity."

Under date of September 5, 1946 (B-59998), a letter in the same language as the draft was sent to the Comptroller General which letter was signed by Dean Acheson, Robert P. Patterson, James Forrestal, and William D. Leahy, in their capacities respectively as Acting Secretary of State, Secretary of War, Secretary of the Navy, and Personal Representative of the President for National Intelligence Authority. No specific reply was made to this letter.

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On August 15, 1946 (B-59998), a letter signed by [redacted] Colonel, Executive for Personnel Administration for Central Intelligence Group, to the Comptroller General (received GAO, August 19, 1946) confirmed a conference between representatives of National Intelligence Authority and the General Accounting Office on August 14, 1946, relative to disbursing and accounting procedures to be established in order to insure security with respect to the confidential operations of the Central Intelligence Group and outlined a plan of a "Voucher and Schedule of Payments" for submission to the Chief Disbursing Officer, Treasury Department, in order to enable that official to make payments to vendors and other payees. This Voucher and Schedule of Payments would be used as both a schedule of payments and the original/basic data normally transmitted through channels to the General Accounting Office for post-audit would physically be retained in the confidential files of Central Intelligence Group. Also, there was outlined in the letter a payroll pro-

- 4 -

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cedure to be followed by the agency. This letter also proposed that audits by the General Accounting Office be made at the site by auditors approved by Central Intelligence Group from a security viewpoint and that after audit and approval for settlement by representatives of the General Accounting Office the original vouchers and basic payroll data would be retained in the confidential files of the Central Intelligence Group for a period of not to exceed five years. Under date of August 28, 1946, the Comptroller General, in a letter to the Director, Central Intelligence Group, approved the procedure for and payment by the Chief Disbursing Officer of a properly prepared "Voucher and Schedule of Payments." This letter stated further that in accordance with the informal discussions the names of the General Accounting Office auditors designated to perform the site audits would be submitted to the Director, Central Intelligence Group, for approval prior to the first audit.

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On March 27, 1947 (E-59998), Hoyt S. Vanderberg, Director of Central Intelligence, wrote the Comptroller General requesting approval for an arrangement under which the original vouchers and supporting papers related to disbursements made at certain locations abroad through officials of the State Department who have been designated Special Disbursing Agents to the Chief Disbursing Officer, Treasury Department, would be forwarded directly to the central office of the Central Intelligence Group in Washington, D. C., and subsequently retained in their files for audit by representatives of the General Accounting Office. By letter dated April 1, 1947, to the Director of the Central Intelligence Group, the Comptroller General approved the requested procedure.

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- 5 -

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By letter dated July 1, 1947, the Secretary of State George C. Marshall, Secretary of War Robert P. Patterson, Secretary of Navy James Forrestal, and Personal Representative of the President on National Intelligence Authority, William D. Leahy, requested that during the 1948 fiscal year the same authorities and arrangements apply to the activities and funds of the Central Intelligence Group as existed during the 1947 fiscal year. No reply appears to have been made to this letter and there is a notation "File E. L. F. 7/28/47" appearing on the bottom of this letter.

Enactment of National Security Act of 1947, Public Law 253, 80th Congress

On July 26, 1947, Senate 750 was enacted into Public Law 253 which set up the National Security Council and by Section 102 provided for a Central Intelligence Agency as successor to the Central Intelligence Group. This legislation, however, provided no administrative authorities for obtaining, expending or accounting for funds in carrying out the intelligence activities.

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Following the enactment of this legislation [REDACTED] Executive for Administration and Management, on October 7, 1947, (B-59998) wrote the Comptroller General in which it was stated that in accordance with the informal arrangements made with the representatives of the General Accounting Office and the Treasury Department, it was planned to operate and administer the funds made available to the National Security Council in the same manner as funds made available heretofore to the Central Intelligence Authority. Accordingly, the vouchers and basic supporting papers would be retained in the files of the agency in order to enable the representatives of the Audit Division of the General

- 6 -

Accounting Office to perform the site audit of these accounts. The letter also enclosed delegations of authority executed by the Executive Secretary and concurred in by the Director of Central Intelligence. Reply to this letter does not seem to have been made by the General Accounting Office as it contains a notation "File, no reply necessary, ELF, 10-9-47."

On July 1, 1948, Secretary of State G. C. Marshall, Secretary of the Army Kenneth C. Royal, and Secretary of the Navy John L. Sullivan wrote the Comptroller General requesting that during the fiscal year 1949 the same authorities and arrangements apply for the activities and funds of the Central Intelligence Agency as existed during 1947 and 1948 fiscal years. No reply seems to have been made to this letter as it contains a notation "File ELF, 7-13-48."

Enactment of legislation for the administration of the Central Intelligence Agency

H. R. 2663 and S. 961 were introduced in the 81st Congress for the purpose of providing for the administration of the Central Intelligence Agency, established pursuant to Section 102, National Security Act of 1947, and for other purposes. Section 7(a) of the bill, renumbered as Section 10(a) in the bill as enacted, permitted sums made available to the agency by appropriation or otherwise to be expended for the purposes set forth in the section notwithstanding any other provisions of law. House Report No. 160, 81st Congress, reporting on the bill (page 6) stated that this section was necessary in view of the requirements in existing law or Comptroller General's decisions which specified

- 7 -

that such expenditures were not permissible unless authorized by law. Section 7(b), renumbered Section 10(b), in the bill as enacted, provided as follows:

"The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the Certificate of the Director and each Certificate shall be deemed a sufficient voucher for the amount therein certified."

House Report No. 160 (page 6) did not amplify the meaning of this section and stated only that the sections permitted the agency to expend sums made available to it without regard to provisions of law and the expenditure of funds for confidential purposes could be accounted for solely by the certification of the Director.

On March 4, 1949, J. Darlington Denit, Chief, Accounting and Bookkeeping Division, wrote the Comptroller General and called attention to Bills H.R. 2663 and Senate 961 providing for administration of Central Intelligence Agency and particularly to the language of subsection (b) of Section 7. Mr. Denit pointed out that the general application of existing laws and the authority and responsibilities vested in this Office over the control and review of the financial transactions of various Government agencies would be completely nullified insofar as the transactions of the Central Intelligence Agency were concerned and that the legal effect of such a provision would place the agency in an autonomous position from the standpoint of accountability for the funds that may be appropriated or transferred to it. He suggested that the following language be substituted:

- 8 -

"(b) Of the sums made available to the Agency amounts shall be specified which shall be expended for objects of confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the Certificate of the Director and every such Certificate shall be deemed a sufficient voucher for the amount therein certified."

On March 14, 1949, (B-74185-O.M.) the Comptroller General wrote to the Chief, Accounting and Bookkeeping Division and after referring to a letter of March 12, 1948, B-74185 (to Director, Bureau of the Budget commenting upon draft of the proposed bill) stated that it was "deemed unnecessary to make any other comment on the bills at this time."

Mr. E. L. Fisher, General Counsel, on March 10, 1949, (B-74155) wrote Mr. Weitzel with return of the files on Central Intelligence Agency Bills H. R. 2663 and Senate 961 and recommended that we not make a voluntary report on these bills. Mr. Fisher stated that he honestly believed that nothing could be accomplished by such a report and we would jeopardize ourselves against an "abuse report" later on. He stated that we can watch the operations under the bill and be in a better position to make an "abuse" report later on if we are not disregarded on a voluntary report now. Mr. Fisher further stated that if we are going to have spies he could not conceive of a better program to be carried on than one with almost unlimited authority.

On August 17, 1949, Rear Admiral R. H. Hillenkoetter, Director of Central Intelligence wrote the Comptroller General in which he stated that the National Security Act of 1947 provided no detailed fiscal or administrative authorities to which reference could be made in expanding or accounting for funds and that there was an obvious need for clarification of these authorities. This clarification had been accomplished through Public Law 110, 81st Congress, which was enacted June 20, 1949.

- 9 -

The Administrator went on to state in this letter that the law granted the agency and the Director certain very broad and unusual powers in a number of respects and on which he was keenly aware of his responsibilities. He further stated that so long as he held the position of Director the policies on fiscal matters and his attitude toward the Government funds under his control would in no way be changed by legislative grants of power to him. In a note to Mr. Keller, Mr. Fisher stated no reply was necessary and recommended that the letter be filed.

On June 29, 1951, (B-59998) the Comptroller General wrote Honorable Walter B. Smith, Director, Central Intelligence Agency, stating that subsequent to the letter of August 28, 1946, which approved site audit procedures for Central Intelligence Agency such procedures have been extended to include the audit of disbursing officers' accounts current and that accounts current reflecting transactions for the month of July 1951 and thereafter would be retained by your agency for site audit by approved representatives of this Office.